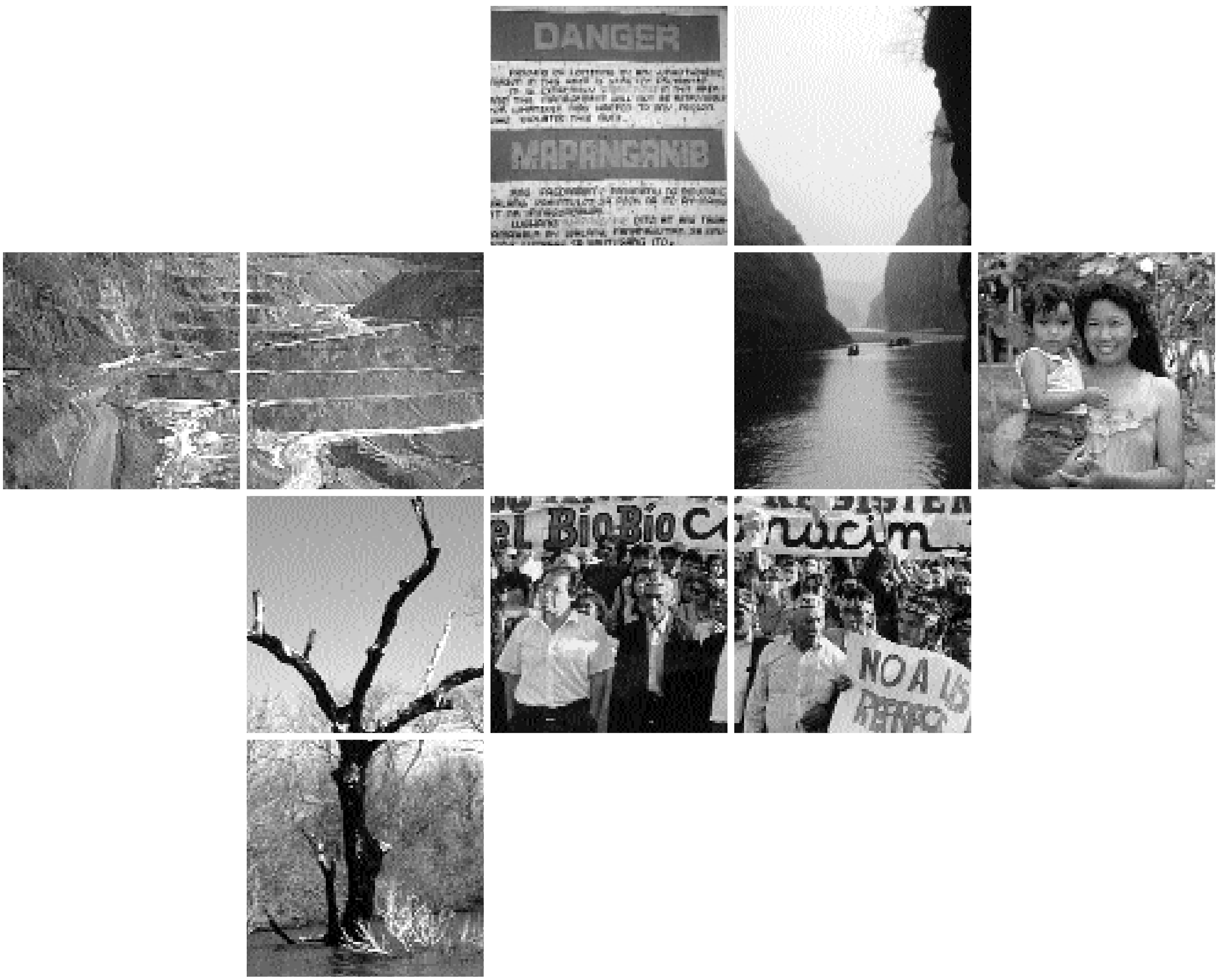
# Reckless Lending

## How Canada's Export Development Corporation Puts People and the Environment at Risk




BY THE NGO WORKING GROUP ON THE EXPORT DEVELOPMENT CORPORATION

A WORKING GROUP OF THE HALIFAX INITIATIVE COALITION

MARCH 2000

*The NGO Working Group on the Export Development Corporation* is a coalition of Canadian non-governmental organizations concerned about the human and environmental impacts of export credit agencies. The Working Group promotes adherence by export credit agencies, particularly Canada's Export Development Corporation, to internationally accepted standards regarding human rights, environment and sustainable development.

Members of the Working Group are:

*Canadian Auto Workers*
*Canadian Council for International Cooperation*
*Canadian Friends of Burma*
*Canadian Labour Congress*
*Canadian Lawyers Association for International Human Rights*
*Democracy Watch*
*East Timor Alert Network*
*International Centre for Human Rights and Democratic Development*
*MiningWatch Canada*
*Project Ploughshares*
*RESULTS Canada*
*Social Justice Committee of Montreal*
*Steelworkers Humanity Fund*
*West Coast Environmental Law Association*

The NGO Working Group on the Export Development Corporation is hosted by the Halifax Initiative Coalition.

Halifax INITIATIVE d'Halifax

The Halifax Initiative seeks to reform the international financial system and its institutions to achieve: poverty eradication, environmental sustainability and equitable redistribution of wealth. Canadian NGOs formed the Halifax Initiative in December 1994 to ensure that demands for fundamental reform of the international financial institutions were high on the agenda of the G7's 1995 Halifax Summit.

*This report documents the negative impacts of several projects financed by Canada's Export Development Corporation (EDC). "Reckless Lending: How Canada's Export Development Corporation Puts People and the Environment at Risk" highlights the need to ensure that EDC, a public agency, be required by law to uphold public policies and international standards protecting human rights, the environment and the social needs of communities. The Export Development Act, which governs the EDC is currently under legislative review.*

The NGO Working Group would like to thank the following groups who contributed valuable information to the report: the Campaign for Nuclear Phaseout, International Rivers Network, Probe International and Project Underground.

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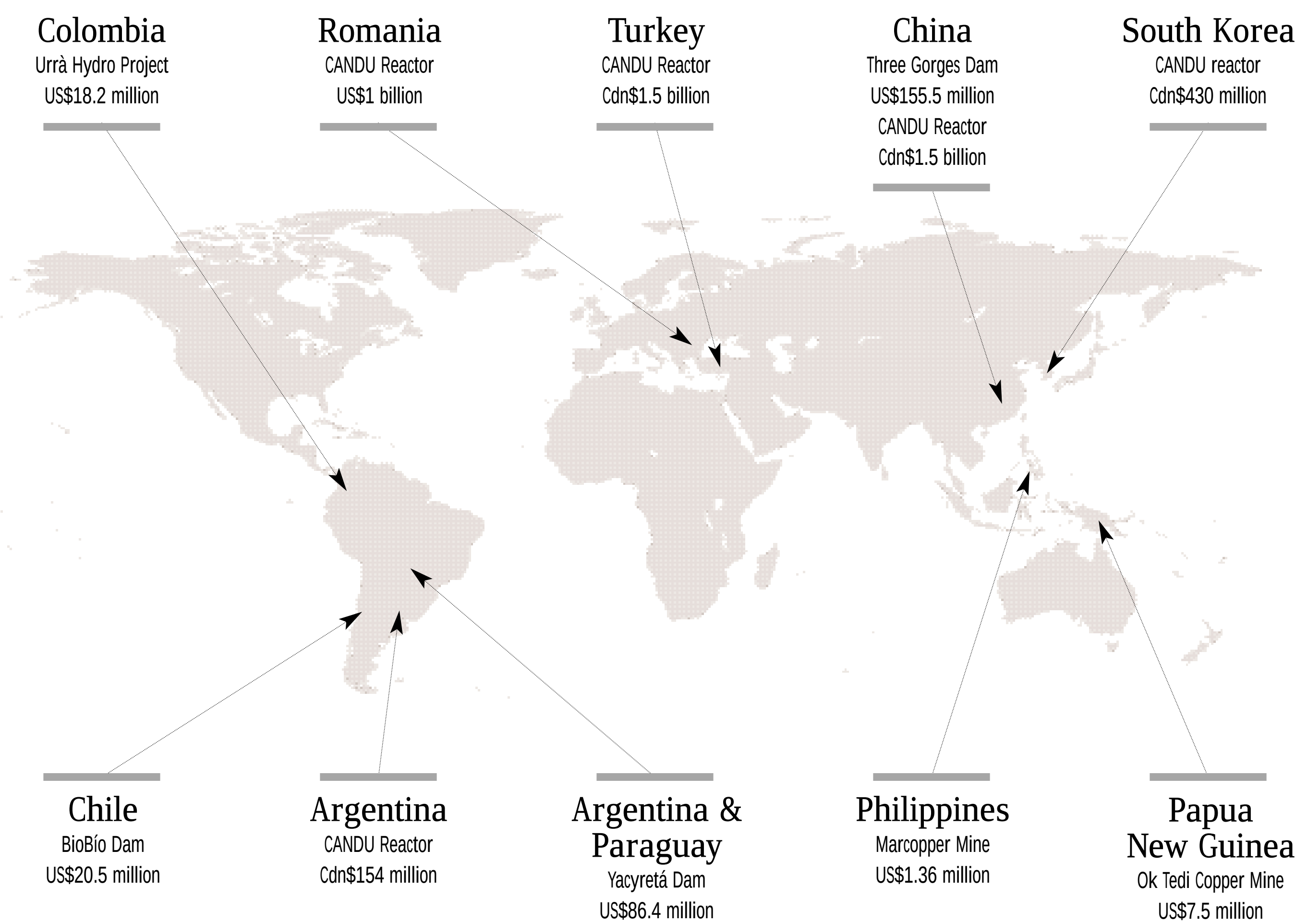


# Introduction

CANADA'S EXPORT DEVELOPMENT CORPORATION PUTS PEOPLE AND THE ENVIRONMENT IN DEVELOPING COUNTRIES AT RISK. THE FOLLOWING CASE STUDIES DOCUMENT SOME OF THE NEGATIVE IMPACTS OF EDC-SUPPORTED PROJECTS. UNLIKE THE WORLD BANK AND THE US EXPORT CREDIT AGENCIES, EDC IS NOT REQUIRED TO UNDERTAKE ASSESSMENTS OF THE POSSIBLE IMPACTS ON THE ENVIRONMENT, HUMAN RIGHTS OR COMMUNITIES WHEN, FOR EXAMPLE, A DAM, A NUCLEAR REACTOR OR A MINE IS BEING BUILT. THE RESULT, AS THESE CASE STUDIES SHOW, CAN BE DISASTROUS.

Over the years, EDC has financed thousands of projects. The public knows of only a few. Although EDC operates on the full faith and credit of the government of Canada, pays no taxes, and enjoys other government support, it operates largely in secret. It is exempt from the Access to Information Act. Because there is no legal obligation to let Canadians know which companies are being financed, the public tends not to learn about an EDC project until it becomes a well-publicized disaster.

This report highlights some of the more notorious disasters in which EDC has been an accessory. These are just a few of the impacts of EDC-supported projects:

➢ China's Three Gorges Dam is considered to be the world's single most environmentally damaging project under construction today. The corruption-ridden project will flood an area 660 kilometres long, submerging archeological sites and violating the human rights of between 1.3 and 2 million people who will be forcibly relocated.

➢ The Urrà Hydro Project in Colombia has destroyed the traditional food supply of the indigenous Embera Katio people and forced many of them off their land. Six Embera people protesting the dam have been killed by paramilitary groups with alleged links to the Colombian army, and ten additional members of the community have disappeared.

➢ The Marcopper mine in the Philippines has created a "state of calamity for health reasons" in nearby communities. The toxicity of the water in the local area exceeds international water quality standards, and children have been found to have elevated levels of lead in their blood. A massive mine waste spill in 1996 forced the evacuation of five villages, affecting 20,000 residents, and causing a "total loss of aquatic life and biological productivity," according to United Nations investigators.

➢ The BioBío dam in Chile has led to forced relocations and illegal forestry activity on the indigenous Pehuenches people's land. The dam has failed to comply with World Bank environmental standards that were a condition of its financing.

➢ The Ok Tedi mine dumps 80,000 tonnes of waste per day into waterways in Papua New Guinea. The mine has destroyed fish stocks and polluted 1,300 square kilometres of productive forest land and 1,200 kilometres of fertile river bank. The World Bank recently recommended that the mine be closed because of its environmental impact.

➢ The Yacyretá dam on the Argentina-Paraguay border will inundate 1,650 square kilometres of land, including two towns, the homelands of indigenous people, and wildlands that are home to many unique species.

- ➢ CANDU nuclear reactors in several countries have experienced a host of problems, including safety mishaps, corruption, exposure of workers to radiation, and international security concerns. A proposed CANDU reactor in Turkey would be sited in a seismically active earthquake zone.

These disasters are not simply accidents. They could have been prevented, avoided or greatly minimized if EDC was required by statute to undertake environmental, social and human rights impact assessments of its projects.

In 1999, possibly in an attempt to pre-empt legislation, EDC adopted a voluntary, non-binding environmental review framework (ERF). EDC argues that with this policy in place, it is adequately protecting people and the environment. The ERF, however, falls far short of existing industry standards for environmental assessment in use in Canada and abroad. For example,

*Pipes from Marcopper mine in the Philippines. Between 1975 and 1991, the mine dumped roughly 200 million tons of tailings in Calancan Bay, an important fisheries area. The mine waste has smothered 80 square kilometers of sensitive sea grass and coral.*

- ➢ EDC's Environmental Framework does not make an environmental assessment of projects mandatory, even for mega-projects like dams and nuclear reactors.
- ➢ It allows EDC to finance projects with known adverse impacts, if the impacts can be justified by undefined, anticipated, positive aspects of such projects. This opens the door to allow for significant adverse human rights, environmental and social impacts in developing countries to be justified on the basis of economic gain, even if the impacts violate international standards.
- ➢ EDC does not require public input or disclosure of assessments, even though both are common practices in environmental assessment in Canada and abroad.

EDC has no policies in place to ensure that the social needs or human rights of communities living near a project will not be violated or undermined. EDC's problematic environmental review framework makes mention of social assessment, but does not define it. Its voluntary Code of Ethics focuses on the human rights of EDC employees. EDC argues it does not need specific human rights and social policies as it follows Canadian foreign policy in the area of human rights. However, without operational policies in place to assess the possible human rights impacts of its activities, EDC's spoken commitment to follow government policy in the area of human rights can not be translated into practice.

EDC argues that, by protecting the environment, social needs of affected communities and human rights, it would be at a competitive disadvantage. However, the competitive advantage of Canadian companies should not rest on the violation of people's rights or on environmental degradation. If Canadian companies operating abroad take advantage of weak or non-existent environment, human rights and labour laws, they should not be enabled to do this with public support. Without standards in place to guide EDC financing, Canada is contributing to a race to the bottom, resulting from, and contributing to, growing poverty and environmental degradation in developing countries.

EDC must be required to assess the environmental, social and human rights impacts of its projects. It must be required to disclose information about the project before it is approved in order to learn about the impacts. And it must disclose information about its on-going projects in order to ensure the public accountability of its standards.

Without concrete, enforceable standards in place and without disclosure and accountability in EDC practice, Canada will continue to risk the environment, communities and our reputation abroad through reckless EDC lending.

# China – Three Gorges Dam

IN DECEMBER 1994, CHINA BEGAN CONSTRUCTION ON THE THREE GORGES DAM, THE WORLD'S LARGEST HYDRO DAM AND CHINA'S MOST AMBITIOUS PUBLIC WORKS PROJECT SINCE THE GREAT WALL.

Environmentalists consider the Three Gorges dam the world's single most environmentally damaging project under construction today. The dam will create a new body of water 660 kilometres long. It will imperil endangered species along the Yangtze River, turn the river into a cesspool of human and industrial wastes, and submerge archeological sites dating back to 10,000 BC. Perhaps most disturbing is the project's plan to forcibly relocate between 1.3 and 2 million people to make way for the project.[1]

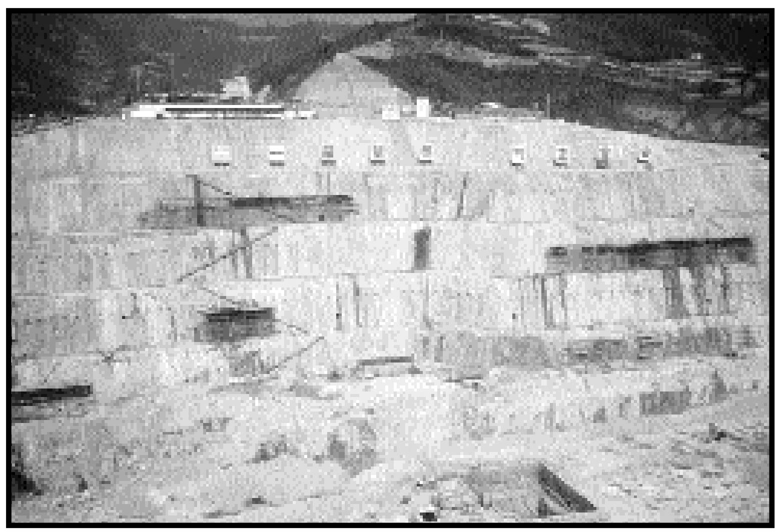
Proponents of the 185-meter dam claim it will provide flood control, ease navigation on the Yangtze River and generate 18,200 megawatts of electricity. But many say that the US$30 to US$50 billion dam will be a white elephant. Critics contend that sedimentation of the reservoir will actually disrupt navigation, cause flooding and destroy the dam's turbines, and because the dam is being built over fault lines, seismologists fear its weight will induce an earthquake.

EDC was the first export credit agency to support the dam, financing the sale of Monenco-AGRA's super computer (US$12.5 million in 1994) and the sale of Canadian General Electric's turbines and generators (US$153 million in 1997) for the project.[2]

In the case of Three Gorges, EDC has become involved in a project where other financiers fear to tread:

- Testifying before the Ontario Energy Board the week of the ground-breaking ceremony, Ontario Hydro Chair Maurice Strong was asked if the utility will seek Three Gorges contracts. "Over my dead body," Strong replied.[3]
- In 1993, the U.S. Bureau of Reclamation, which had been involved in preparations for the Three Gorges since 1944, pulled out of the project, claiming it was neither economically nor environmentally feasible.
- The U.S. Export-Import Bank (Ex-Im) refused to issue a letter of interest due to a lack of information by which to establish the project's consistency with the Bank's environmental guidelines. [4]
- The World Bank, notorious for its involvement in large dam schemes, noted in a September 1988 statement that the current design of the project is "not economically viable."
- Engineering giant Bechtel Enterprises has also stated that it is "not at all likely" to pursue Three Gorges contracts because it feels the project "is extremely controversial from an environmental perspective."[5]

The Three Gorges project has become synonymous with corruption. State media in China has reported that roughly 100 officials associated with the project have been sanctioned for corruption. One official was recently sentenced to death for embezzling more than $2 million from the relocation budget. China's auditor general has reported that about $1 billion of the money earmarked for relocation – 12 percent of the relocation budget – has been embezzled, although this figure was recently revised to 7.4 percent of the relocation budget.[6]



*Construction along the Yangtze River, China.*

According to China's foremost investigative journalist, Dai Qing, "The Chinese government typically raises capital in Hong Kong and Taiwan, in exchange for promises of political benefits for its allies. But the Hong Kong and Taiwan investors are refusing to pay for the Three Gorges project because they know it is too difficult to get money back from this project."[7]

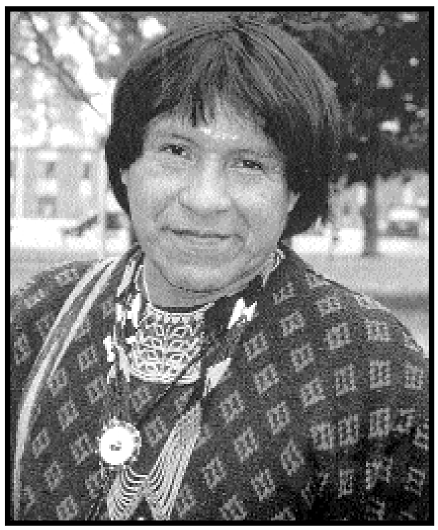
Public debate and criticism of the dam is strictly forbidden in China; journalists who have attempted to publish critical views of eminent Chinese experts have been jailed, and documents criticizing the dam have been banned.

# Colombia – Urrà Hydro Project

THE URRÀ HYDRO MEGA-DAM HAS LED TO DISASTROUS CONSEQUENCES FOR THE EMBERA KATIO INDIGENOUS GROUP IN COLOMBIA. FOR CENTURIES, THE EMBERA RELIED ON THE FISH FROM THE RIVER AND A FEW BASIC CROPS FOR SELF-SUFFICIENCY. WITH THE CONSTRUCTION OF THE DAM, THE TRADITIONAL FOOD SUPPLY OF THE 3,000 EMBERA KATIO LIVING IN THE RIVER BASIN HAS BEEN WIPED OUT.[8]

The dam has also brought a more direct threat to the community: military terrorism. Colombia has been recognized as the Western Hemisphere's most violent country. Many of the human rights abuses are committed by paramilitary groups that frequently operate with the tacit approval of the government. According to Amnesty International, six indigenous people protesting the project have been killed by paramilitaries with alleged links to the Colombian army, and ten additional members of the community have been "disappeared."[9]

The Urrà project is being built by a consortium of companies. A Swedish company, Skanska, is the main construction company involved. A Russian company, Energomachiexport, has been hired to equip the dam, and a Colombian company, Gomez Y Cajiao, has been contracted for the civil engineering. Financing is being undertaken by the Swedish Nordik Investment Bank, NIB, and EDC, which is providing a US$18.2 million loan.[10]



*Kimy Pernia Domico, a traditional leader of the Embera Katio.*

Kimy Pernia Domico, a traditional leader of the Embera Katio, came to Canada in November 1999 to speak about the Urrà project. "The dam has brought death to our people, death to the fish, and death to the members of our community who have seen their source of protein vanish, and death to our leaders who have protested or challenged the dam," he told the Standing Committee on Foreign Affairs and International Trade during his visit.

"The impact on my people is very sad," Domico added. "These days, with the fish gone, it is common in my community to see people fainting because they're weakened by malnutrition, which leaves people vulnerable to diseases that never used to affect us. The worst is that many children have died as a result."

Since Domico returned to Colombia in late November 1999, the Urrà consortium has begun filling the dam reservoir, in violation of a court order obtained by the Embera Katio. The injunction was obtained in November 1998 because the Colombian courts held that the project proceeded without adequate consultation with the Embera Katio.[11] Since obtaining the injunction, the Urrà consortium has offered limited compensation packages to members of the Embera Katio. The Embera leadership has denounced this as a blatant attempt to divide their communities. The leaders are supported, not only by the injunction, but also by the Colombian Ombudsman, who has ruled that negotiations must take place with the entire community. The Embera have stated that for long-term food security, they need adequate agricultural land on which to resettle, with access to fisheries.

In the coming months, further violence against the community is expected as it attempts to ensure that the court order is respected.[12]

# Philippines – Marcopper Mine

THE MARCOPPER MINE, LOCATED 175 KILOMETRES SOUTH OF MANILA ON THE PHILIPPINE ISLAND OF MARINDUQUE, HAS DEVASTATED THE HEALTH AND ENVIRONMENT OF NEARBY COMMUNITIES.

Marcopper, which was managed by part-owner Placer Dome Inc., began mining on Marinduque in 1969. Marcopper has contaminated various sites around the island:

- Between 1975 and 1991, the mine dumped roughly 200 million tons of tailings in Calancan Bay, an important fisheries area. The mine waste has smothered 80 square kilometers of sensitive sea grass and coral.[13]
- Since 1992, toxic waste from a faulty tailings dam has flowed into the Mogpog River, affecting 27 villages downstream. In 1993, the dam burst, sweeping two children to their deaths in the flooding.[14]
- The 26-kilometre-long Boac River was devastated by a massive tailings spill in 1996.[15]

*Residents of Marindique, near the mine.*

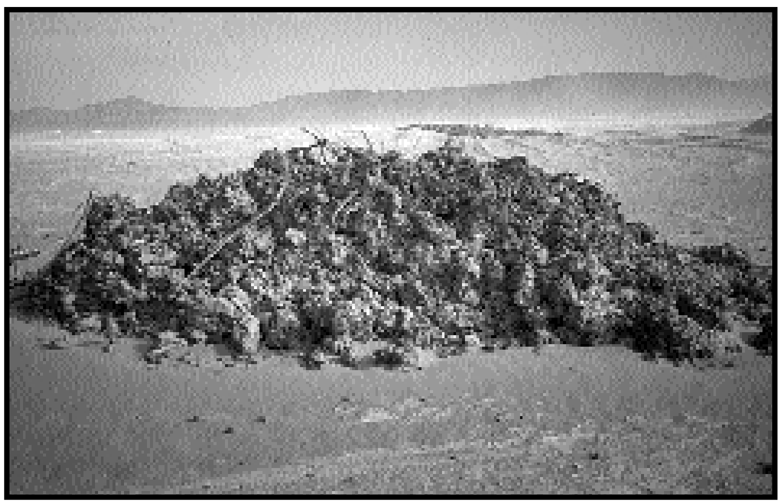
In March 1982, EDC gave a US$1.36 million loan to the mine.[16] By then, mine waste had been dumped into Calancan Bay, via surface disposal, for eight years. Surface disposal dumping into shallow water was well known to cause damage to near-shore corals and to create turbidity that would drive away fish. As early as 1975, Marcopper had been warned of the potential damage of such a system by independent consultants (Rescan Environmental Services Ltd.).

The permit granted by Philippine regulatory authorities in 1975 stipulated that the disposal system must be submerged to reduce turbidity and that the discharge point should be far enough from shore to allow the tailings to move to a deeper channel so that corals would not be effected.[17] Marcopper did attempt to implement a submerged system but when this attempt failed the company resorted to surface disposal close to shore in violation of its permit.[18] Local villagers who relied on the bay for their livelihood maintained a steady protest against the dumping throughout the first eight years. Independent consultants' reports confirmed and documented the increasing deterioration of the environment of the bay and registered concern for metal contamination of the local environment.[19]

In 1981, local protests over damage to the bay and to fishing resulted in national media coverage in the Philippines and a review of the disposal system by regulatory authorities. This led to an order for the mine to cease and desist dumping waste into the bay. But Marcopper President, Placer Dome's Garth Jones, protested the cease and desist order directly to the country's president. Then President Ferdinand Marcos, who was also part owner of the mine, intervened on Marcopper's behalf and overturned the order directly by presidential decree. The dumping into Calancan Bay continued as before.[20] It was in the immediate wake of these dramatic events that focussed attention on the damaging effects of the mine's operations that EDC granted its loan to Marcopper.

In 1997, a medical team from the University of the Philippines and the Philippine Department of Health found elevated mercury and lead levels among the children from Calancan Bay area. A doctor from the area also reported a number of deaths potentially related to metal contamination. On March 5, 1998 then-President Fidel Ramos proclaimed a “state of calamity for health reasons” in Calancan Bay, linking high lead levels in the blood of children from the area to lead in the exposed tailings in the bay.[21]

In March 1996, a drainage tunnel failed at the mine, causing an estimated three to four million tonnes of copper-contaminated mine waste to spill into the Boac River. Flooding forced the evacuation of five villages and an estimated 20,000 villagers living along the river and its coastal mouth were affected.[22] A UN investigation described the spill as an “environmental disaster,” reporting that the affected river suffered a “total loss of aquatic life and biological productivity.”[23] According to the U.N. investigators, Marcopper failed to exercise good environmental management at the mine.[24] A waste rock siltation pond operated by Marcopper was found by the UN to be poorly maintained and seeping toxins that exceed international water quality standards.[25] The 1996 spill was so severe that exploration licenses for all mining activity in the country were suspended and the government was forced to re-examine its mining regulations.



*Calancan Bay.*

The mine was shut down following the spill, putting 800 employees out of work.[26] Placer Dome, the Canadian company that owned a 40 percent stake in the mine, has spent US$80 million on clean-up and compensation for the Boac River spill.[27] Criminal charges are pending in the Philippines against three former Marcopper employees, including Placer Dome’s John Loney and Steve Reid for the Boac River spill. As Placer Dome divested its interest in the mine one year after the spill, the company claims to have no further responsibility for the ongoing mining-related problems at the Mogpog River and at Calancan Bay, nor for the closure and clean up of the mine site and its waste dumps. Placer Dome’s former partner in the mine is near bankruptcy. Local legal rights groups are organizing lawsuits to seek payment for rehabilitation and compensation for all Marinduquenos who continue to be affected by the Marcopper mine.

While Placer Dome claims it sold its share in Marcopper in 1997, Philippine court documents show that on December 31, 1997 Placer Dome became the sole owner of the Marcopper mine through an “indirect wholly-owned subsidiary” called MR Holdings, “a foreign corporation organized and existing under the laws of the Cayman Islands.”[28] Placer Dome has yet to provide documentary proof to counter the claims made in these legal documents.

# Chile – BioBío Dam

SPRINGING FROM LAKES HIGH IN THE ANDES, THE BIOBÍO RIVER TRAVELS 380 KILOMETRES THROUGH STEEP GORGES AND PINE FORESTS, PAST AGRICULTURAL LANDS AND CITIES, BEFORE EMPTYING INTO THE PACIFIC OCEAN.

More than one million people use the BioBío for drinking, irrigation, recreation and fisheries. Its beauty is legendary among rafting enthusiasts, who consider it one of the best rafting rivers in the world.[29]

The Spanish energy company Endesa plans to construct six hydroelectric dams on the BioBío. The dams will submerge 3,400 hectares of forest, and threaten 14 rare species of animal and plant life, including the peregrine falcon and the Andean Condor. The project is being built in an earthquake zone, close to three active volcanoes.[30] When all six dams are completed, they will have forced 1,000 Pehuenche indigenous people from the area, or 20 percent of the survivors of this ancient culture.

The first dam to be completed was the Pangue, built on the Upper BioBío in 1996 with the help of a US$20.5 million loan from EDC to finance the export of Canadian generators and cables from Alcatel and Canadian General Electric.[31]

Completion of the 450 megawatt Pangue dam has already led to illegal forestry activity on the Pehuenches' land,[32] and according to a report completed for the World Bank, the Pangue dam failed to comply with World Bank environmental standards that were a condition of the project's financing.[33] Citing a failure to follow proper procedures in the World Bank's environmental assessment of the project, many critics of the project argue that these problems were foreseeable.[34] In April 1998, World Bank President James Wolfensohn acknowledged the Bank's poor performance in assessing the BioBío project, and promised to help resolve the problems caused by the Pangue dam.[35]

Controversy over the second phase of the project, the Ralco dam, has forced delays in starting construction. Indigenous and environmental groups in Chile and North America have strongly criticized the project's plan to force 400 Pehuenches from their ancestral home.

In June 1996, the Chilean government environmental agency, CONAMA, declared Endesa's environmental impact statement for Ralco unsatisfactory for the second year, citing the high social and environmental costs, the renewed geothermal activity of a nearby volcano, and the fact that the project would generate electricity far in excess of Chile's needs in the foreseeable future. However, CONAMA approved the project a year later with changes to the resettlement site for the Pehuenches and a reduction in the dam's power generation capacity. Several Pehuenche families have refused to relocate, and Indigenous groups have taken CONAMA and Endesa to court, declaring the project illegal under Chile's Indigenous Law.[36]

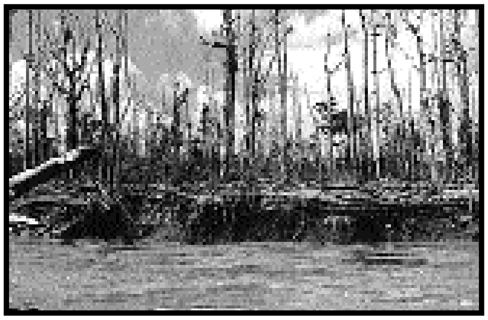
A September 1999 letter from various indigenous groups to the president of Endesa warns that Ralco would lead to "the genocide of our people." The letter states, "We are tired of telling Endesa Chile that we will not leave our lands and that we will not exchange our lands even for gold. We hope that you understand that the land, for us, is not something that can be bought or sold, but is an integral part of who we are, the basis of our culture, the fundamental element of our identity as a people."

Work on the Ralco project was suspended in February 2000 because of permitting delays related to the groups' legal action. However, most observers expect the project to be completed by 2003.[37]

*Demonstration against the BioBío dam.*

# Papua New Guinea – Ok Tedi Copper Mine

THE OK TEDI MINE IN PAPUA NEW GUINEA IS THE WORLD'S THIRD-LARGEST OPEN-CUT COPPER MINE. REPRESENTING 10 PERCENT OF THE PNG'S GROSS DOMESTIC PRODUCT, AND 20 PERCENT OF ITS EXPORTS, THE MINE'S IMPACT ON THE PNG ECONOMY IS ENORMOUS, GIVING THE MINE OWNERS TREMENDOUS POLITICAL CLOUT.[38]



*Mine waste from Ok Tedi has destroyed riverside forests and created changes in riverflows which have caused riverbank erosion.*

The mine has also had an almost unfathomable impact on the environment. While the government originally required a tailings dam to be built, this dam was destroyed in a 1984 landslide, and it was never rebuilt. Since then, the mine has been dumping 80,000 tonnes of rock waste a day into the Ok Tedi and Fly Rivers.[39]

EDC committed up to US$88 million to the mine in 1982. EDC lent US$7.5 million to provide construction for the project.[40] The project is 52 percent-owned by Australian mining giant BHP, the world's fourth-largest mining company. The PNG government owns 30 percent, and a Canadian mining company, Inmet Corporation, owns 18 percent.

By 1993, when Inmet bought its share of the mine, the problems had become well known. The sheer sediment load, plus a variety of toxic exposures related to the mine waste, "rendered the first 70 kilometres of the Ok Tedi River almost biologically dead" according to a 1993 report by the Australian Conservation Foundation.[41] Internal company reports admit that fish stocks in the Ok Tedi River have declined by 50 to 80 percent. Pollution from the mine has contaminated 1,300 square kilometres of productive forest land and 1,200 kilometres of fertile river bank.[42]

In 1994, 15,000 PNG landowners who live downstream from the mine launched a class action suit against BHP. The company made various attempts to stymie the case, including drafting legislation for the PNG Parliament that made such claims in foreign courts illegal, with fines of up to US$75,000 against those who would sue the company or challenge the proposed law. When BHP's role in drafting the legislation was revealed, the company was found in contempt of court, only to be let off on a technicality.

In 1996, BHP settled the case, agreeing to spend up to US$115 million to compensate the landowners for environmental damages from the mine. The company also undertook to build a full tailings retention system within two years.[43]

However, these remedies turned out to be out of line with the scale of the mine's impact. A June 1999 report prepared for BHP made it clear that the millions of tons of silt, sand, and other mine waste poured into the Ok Tedi and Fly rivers had built up to the point where flooding was predicted to become so frequent that it would kill existing trees on 800 square kilometers of floodplain by 2010. The study also showed that the area of "dieback" along the shores of the rivers may expand further by 50 percent.[44]

BHP is eager to escape what has become a public relations nightmare in its native Australia, and is clearly worried about the costs of the eventual clean-up of the mine. Following the report, the company announced it intended to abandon Ok Tedi, but said it would stay if the PNG government asked it to, a move widely seen as an attempt to shift liability for clean-up to the government. The government has an enormous interest in keeping the mine open. In addition to its stake in the project, an estimated 50,000 people in PNG are dependent on the mine, according to BHP's estimates.[45]

In 1999, the PNG government asked the World Bank to examine the social, environmental and economic issues around cleaning up the mine. In March 2000, the Bank recommended that, despite the economic costs, the mine should be shut down. The Bank report had sharp words for BHP, stating that the company's assessment of strategies for addressing the environmental disaster "reviews a limited set of technical options ... that minimizes overall risk to shareholders."[46]

"BHP's irresponsible attempt to walk away from the problem and receive legal indemnity is totally unacceptable," according to Geoff Evans, director of the Mineral Policy Institute. "BHP is putting share value ahead of the livelihoods of thousands of people. ... If the mine cannot operate without causing massive environmental and social destruction, it must close, and BHP must fully rehabilitate damaged communities and environments."[47]

# Argentina and Paraguay – Yacyretá Dam

BY THE TIME THE RESERVOIR OF THE YACYRETÁ DAM HAS FILLED, IT WILL INUNDATE TWO TOWNS, THE HOMELANDS OF INDIGENOUS PEOPLES AND WILDLANDS THAT ARE HOME TO UNIQUE SPECIES.[48]

*Yacyretá Dam.*

In 1987, EDC lent US$86.4 million through the Canada Account to finance the sale of four Canadian General Electric turbines for the Yacyretá dam[49] on the Parana River, which forms part of the border between Argentina and Paraguay. The project is intended to produce 2,700 megawatts of electricity, improve navigability of the river, reduce the effects of periodic flooding and build a potential for irrigation in both countries.

Originally scheduled to be completed in 1988, the 43-metre dam is one of the largest and most destructive hydro-electric projects in the world. It includes a complex system of concrete and earth dams, 67 kilometres long, and will eventually flood 1,650 square kilometres beyond the original river bed.[50] Most of this area is in Paraguay.

As noted by a report for the Inter-American Development Bank, compared with other major hydroelectric works, the Yacyretá hydroelectric project is transforming its surroundings to an extraordinary degree. Unlike dams thrown across closed canyons (e.g., Itaipú) or built in remote, unpopulated areas, Yacyretá floods an extensive territory that includes farmlands and significant portions of towns in Argentina and Paraguay.[51]

In 1997, NGOs from both countries asked the World Bank to investigate allegations that the project violated World Bank environmental policies. Many of these claims were confirmed by the World Bank's Inspection Panel, which reviewed the project. However, the Bank's board of directors voted in December 1997 to come up with an "Action Plan" to correct these problems rather than to implement a plan recommended by the Inspection Panel. Implementation of the Action Plan continues to lag.

The project was born during a period of harsh dictatorships in both countries. A report on the dam's problems by the Inter-American Development Bank noted that the project developers failed to meaningfully consult the populations affected by the dam, including 10,000 to 50,000 people forcibly resettled to make way for the development.[52] The report also states, "the project is plagued by serious problems caused by failures to adhere to the established timetables and commitments for completion of the principal work."

Scheduled for completion in 2001, the dam is more than a decade behind schedule and $8 billion over-budget.[53] It has been referred to by Argentine President Carlos Menem as a "monument to corruption." According to the World Bank, the costs have skyrocketed so much that the electricity produced from the project will cost three times the going rate.[54] To extricate themselves from the project, the binational commission that operates the dam is seeking to sell it to the private sector.

# Argentina, China, Romania, South Korea and Turkey – CANDU Reactors

RADIOACTIVE POLLUTION FROM NUCLEAR POWER PLANTS HAS LONG BEEN LINKED TO THE DEGRADATION OF THE ENVIRONMENT AND HUMAN HEALTH. ESTIMATES INDICATE THAT WORLDWIDE, THE HEALTH OF UP TO ONE MILLION PEOPLE MAY HAVE BEEN DIRECTLY AFFECTED BY NUCLEAR POWER SINCE 1943.[55] NOT ONLY DOES NUCLEAR POWER HAVE A NEGATIVE IMPACT ON THE ENVIRONMENT, BUT BECAUSE IT IS HIGHLY CAPITAL INTENSIVE, IT OFTEN CONTRIBUTES TO THE DEBT BURDEN AND BALANCE OF PAYMENT PROBLEMS OF COUNTRIES THAT PURCHASE NUCLEAR REACTORS.[56]

While there have been no new reactor sales anywhere in North America since 1978, EDC has been a crucial part of the government-subsidized life-support system for CANDU nuclear exports abroad. CANDU sales abroad have been expedited through EDC with virtually no formal public debate in Canada or in the recipient country, without adequate environmental, social and human rights impact assessments and without independent financial scrutiny.

Primarily through its Canada Account, EDC has promoted the following nuclear exports:

➢ Between 1974 and 1978, EDC provided more than Cdn $154 million to finance the Argentine government purchase of a CANDU reactor.[57]

➢ In 1975, Cdn $430 million in financing was arranged by EDC for the Wolsong-1 CANDU reactor in South Korea.[58]

➢ In April 1979, EDC announced a financing agreement of up to US $1 billion for a CANDU export deal with Romania.[59]

➢ EDC has served as a principle conduit for the federal government's transfer of Cdn $1.5 billion in public funds to finance the 1996 purchase by China of two CANDU nuclear reactors.[60]

➢ A leaked 1997 Cabinet document revealed that the government approved Cdn $1.5 billion in financing for the sale of two reactors to Turkey, which would likely be administered through EDC.[61]

In order to secure the CANDU sales in Argentina and South Korea, Cdn $22 million was paid out in "agent fees", widely reported to be bribes. In 1994, AECL's South Korea agent, Park Pyong-chan of the Samchang Corporation, was arrested and sentenced for bribing the head of South Korea's nuclear utility. [62]

The waste produced by these nuclear reactors will have to be managed for thousands of years to come, and it is questionable whether any country has adequate plans to address this problem.

Moreover, the safety and environmental record for CANDUs is seriously marred by spills, design flaws with pressure tubes and feeder pipes (leading to premature aging) and routine emissions of tritium (a radioactive form of hydrogen and known carcinogen).[63] The Embalse reactor in Argentina has been regularly shutdown to repair leaking pipes. There have been so many heavy water leaks at the Wolsong plant in South Korea that the Korea Electric Power Corporation has ordered plant workers to wear special masks.[64] In October, 1999, a CANDU reactor leaked radioactive heavy water inside the South Korean CANDU nuclear power plant during repair work, exposing 22 workers to radiation.[65]

CANDU sales also carry an inherent risk of proliferation. Purchasers can simply ignore their commitments under the Nuclear Non-Proliferation Treaty (NPT), as India did. Nuclear reactor customers – China, India, Pakistan, Taiwan, Romania, Argentina, and South Korea – have at one time or another pursued nuclear weapons programs.[66]

Every CANDU reactor produces plutonium that can be used for nuclear bombs at any time in the next twenty thousand years. In other words, long after the reactor that produced it has been shut down, decommissioned or forgotten, and long after the regime that signed a nuclear cooperation agreement has been consigned to history, the plutonium will still be available for weapons use.

Atomic Energy of Canada Limited (AECL), the Crown corporation that markets the CANDU, claims that nuclear power is the power of choice. However, the people in countries targeted for CANDU reactors exports rarely have the power to choose. Most of the countries that AECL has targeted – countries like China, Turkey, Romania, Indonesia and South Korea – have a long history of restrictions to freedom of speech and other human rights violations.

## CANDU Exports and Romania

In the case of Romania, CANDU reactor sales led to serious human rights abuses. Throughout the 1980s (and even after the downfall of former Romanian dictator Nicolae Ceaucescu's regime in 1989), forced labour was used in construction at the Cernavoda CANDU nuclear project.[67] Workers at the Cernavoda plant were conscripted, received little food, and lived in unheated, poorly serviced barracks. In 1990, AECL's president of CANDU operations admitted that AECL was aware of these conditions, stating, "This was a communist régime – you did not choose where you worked . . . We knew that people had very limited food rations. We knew they had limited heat."[68]

*CANDU spent fuel silos.*

CANDU reactor sales were paid for in part by a "countertrade" agreement made with Ceaucescu in 1980, which allowed Romania to export goods in lieu of paying cash for the reactor. At the same time, the Romanian government agreed to construction of a second CANDU reactor. But by March 1982, the deal had collapsed. Romania, heavily in debt, was unable to meet its payments.[69] In an effort to pay off its $12 billion debt, the Romanian government implemented food rationing and restrictions on energy consumption after 1983. In 1990, the New York-based Hungarian Human Rights Foundation charged that countertrade for CANDU reactors was a significant factor in creating food and energy shortages in Romania during the 1980s.[70]

In May 1998, during his visit to Canada, Romanian President Emil Constantinescu requested more than $1 billion in additional financing, with special concessionary terms in order to complete the reactor, including a longer payback period and a four year delay before repayment of loans commence.[71]

Completion of the second reactor is strongly opposed by environmental groups in Romania and abroad.

## CANDU Exports and China

China's two CANDU reactors are being built with the assistance of a $1.5 billion loan guarantee provided by the federal government. Release of these funds through the Canada Account required federal government approval at the Ministerial level. The Canada Account is administered by EDC on behalf of the federal government and carried on the books of the Department of Foreign Affairs and International Trade. Funds are drawn from the Canada Account, when the size or financial risk associated with export funding is not covered by EDC's standard export credit procedures.[72]

The China loan was deemed too large and risky to go through EDC's Corporate Account, leading the federal government to appropriate $1.5 billion from the Canada Account. This money is backed by the federal government in the event that the Chinese authorities default on the loan. As a result, while the loan to China is administered by EDC, the burden of guaranteeing the debt falls on the Government of Canada.

Through EDC, Canadian taxpayers swallowed the financial risk for a loan that the private sector would be unlikely to consider. During the period in which the CANDU sale to China financing arrangements were being negotiated, it was reported that Chinese state enterprises had defaulted on over a half-billion dollars in loans from Japanese, German and Italian banks.[73]

The financial risk associated with the China deal has been compounded by the federal government's failure to undertake a comprehensive environmental assessment in connection with the sale. Just days before signing the agreement to sell CANDU reactors to China, the Chrétien cabinet changed provisions of the Canadian Environmental Assessment Act (CEAA). Key provisions of the legislation related to the Projects Outside Canada (POC) regulations were struck out, in an effort to avoid the requirement for a comprehensive environmental assessment.[74] The government's failure to undertake such an assessment is the principle focus of an ongoing court challenge by the Sierra Club of Canada.

## CANDU Exports and Turkey

A comprehensive environmental assessment has also not been undertaken in the case of a proposed sale of a CANDU reactor to Turkey. The failure to initiate this assessment is particularly significant given that the proposed reactor site in Turkey, Akkuyu Bay, is located within an area of active fault lines.

An independent April 1998 report on seismic activity around Akkuyu Bay is highly critical of seismic reports prepared by proponents of the reactor project, noting that the reports that were commissioned on the site were superficial, and failed to meet professional seismologists' standards. The report estimates "a probability of 50 percent that an earthquake with a magnitude of 7 Richter or higher will occur within 100 kilometres of the Akkuyu Bay within the next 40 years."[75] The June 1998 earthquake in Turkey was a strong demonstration of how seismically active this area is.

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[58] Ron Finch, *"Exporting Danger: A history of the Canadian nuclear energy export programme,"* (Montreal: Black Rose Books) at 61. $250 million of the loan was authorized under Section 31 of the Export Development Act and $180 million under section 29 of the Act. Section 31 of the Export Development Act comes into play when a loan or guarantee is for a term or amount greater than EDC would normally undertake for a single export transaction, and if the federal government deems it to be in the national interest. Most of the EDC's lending comes under Section 29. Transactions authorized under this section of the act are judged on criteria similar to those employed by a commercial bank for loans on overseas projects.

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# Appendix 1
## Recommendations to Ensure EDC is Responsible to People and the Environment

### The Export Development Act should be amended as follows:

Section 10 of the Export Development Act, which refers to the purpose of the EDC, should read: (1) The Corporation is established for the purposes of supporting and developing, directly or indirectly, Canada's export trade and Canadian capacity to engage in that trade and to respond to international business opportunities in a manner consistent with Canada's commitments to international agreements, including the Universal Declaration of Human Rights, the International Labour Organization's Declaration on fundamental principles and rights at work, and the Rio Declaration of the United Nations Conference on Environment and Development.

The EDC Board of Directors should be empowered to withhold financing support after taking into account adverse environmental, human rights or social effects of a project or transaction.

The Act should require project information to be disclosed publicly at least 60 days before approval by the Board. This information should include the name of the applicant, country, name of exporter, amount and type of financial support, terms of financing, and a brief description of the goods, services or project, along with any environmental, social and human rights information collected.

### The Export Development Corporation should adopt the following policies:

Project-specific information should be disclosed in EDC annual reports and on its web site. This information should include the name of the applicant, country, name of exporter, amount and type of financial support, terms of financing, and a brief description of the goods, services or project.

EDC should establish an autonomous accountability mechanism, using the mechanisms of the World Bank Group as a model, to track and guide EDC's policy implementation, assist EDC staff with sensitive projects and to receive and address complaints from external parties affected by EDC-supported activity.

EDC should require social, environmental and human rights assessments, using World Bank standards and methodology as a base, and to contractually oblige companies to implement assessment recommendations.

New sovereign loans by EDC should not be made with the expectation of reimbursement by the government of Canada in the event that these become uncollectable.

### The Canadian government should adopt the following policies:

The Access to Information Act should be amended to include EDC within its purview.

Through the development of country guidelines in consultation with stakeholders, the Department of Foreign Affairs and International Trade should actively assist EDC to support and respect the protection of international human rights within its sphere of influence and to make sure that Canadian companies are not complicit in human rights abuses, by developing country guidelines in consultation with stakeholders.

The Canadian Environmental Assessment Act should be amended to require EDC to conduct social and environmental impact assessments when considering support for a project.

The Auditor General of Canada Act should be amended to require EDC to develop a sustainable development strategy and report to the Commissioner for Environment and Sustainable Development.

# Appendix 2
## The Case Against and for Higher Standards

### EDC would be put at a competitive disadvantage if strong standards are put in place.

EDC argues that until a multilateral agreement is in place for all export credit agencies, Canada will lose business to export credit agencies who do not have environmental, social or human rights policies in place.

Canada's competitive advantage should not rest on violation of people's rights or on environmental degradation. If Canadian companies operating abroad take advantage of weak or non-existent environmental, human rights and labour laws, they should not be enabled to do this with public support. EDC needs policies in place to ensure that internationally recognized rights and environmental protections are not undermined by Canadian business activities. Without standards in place, Canada is contributing to a race to the bottom, a situation when countries and companies are played off against each other, driving down standards.

There is no evidence that requirements to protect the environment or human rights, result in a loss of business. Protecting the environment and the rights of people makes good business. "If we can conduct our affairs in an appropriate way, it provides a good return to the company," remarked one senior vice-president of a Canadian petroleum company at a press conference on code of ethics for Canadian business.[1] Björn Stigson, President of the World Business Council for Sustainable Development, notes that since the Rio Summit, many companies have changed from seeing only costs and difficulties in the concept of sustainable development to seeing savings and opportunities.[2]

Developing countries do not want obsolete or dirty technology. Time and time again, developing countries request that they not be a dumping ground for goods or services that no longer have a market in industrialized countries due to their negative environmental impacts. EDC may actually see a competitive advantage if it commits to facilitating only the transfer of superior technology or know-how.

The US export credit agencies have had strong standards in place since 1992. Although, it is the only country to date, which requires its' export credit agencies to protect people and the environment, they have not lost business. Instead, US export credit agencies have grown. Since 1995, the US Export-Import Bank estimates that US exporters have increased their export sales by $100 million as projects were upgraded to meet basic environmental criteria.[3]

### EDC would be at a competitive advantage if it increases its level of transparency and disclosure.

EDC does not tell the Canadian public which companies receive its support, for what kind of business and at what location. It also does not let the public know about projects that are under consideration which have known significant environmental and social impacts. This is in direct contrast to the US export credit agencies, the World Bank and other Canadian public financial services, such as CIDA Inc. It is also in contrast to EDC's own activities until the mid-1980s.

Commercially sensitive information exists within commercial transactions. However, not all information related to a transaction is commercially sensitive, and often its sensitivity is time-dependent. EDC should have disclosure as its default, with provisions for information that can be proven to be commercially-sensitive. Such provisions are already in place in Canada's Access to Information Act, which other public agencies adhere to.

EDC does not disclose environmental or social assessments. International practice supports the widespread belief that environmental and social assessments are not commercially sensitive information. Multilateral and bilateral development agencies, including the private-sector lending arm of the World Bank, the International Finance Corporation, publish environmental and social assessments prior to project approval. Experience indicates that disclosure of environmental assessment is a precondition for effective assessment.

EDC competes internationally for contracts with US export credit agencies that have requirements for disclosure. It is difficult to see how EDC would be at a competitive disadvantage if the US export credit agencies are not.

## EDC is not a lender of last resort and therefore cannot adopt US standards.

EDC argues that it cannot adopt the standards in use by US export credit agencies as US export credit agencies are lenders of last resort. This argument assumes that a US exporter will have approached US commercial institutions and had been refused due to risk.

EDC argues that US export credit agencies' clients will do whatever they are told as they cannot receive financing anywhere else. This is not the case for all of US export credit agencies' clients, and no distinction is made in standards applied. All US exporters, borrowers of last resort or not, are required to uphold high standards.

Implicit in this argument is an assumption that companies, when faced with environmental, social or disclosure requirements, would choose to go elsewhere for their financing. There is no evidence to support this assumption.

EDC is meeting a market gap in Canada, as noted by EDC itself. EDC's existence is premised on the fact that Canadian financial institutions cannot meet the needs of Canadian exporters, particularly small exporters. Therefore, EDC is a lender of last resort, not based on risk, but on service. EDC's small clients could therefore not object to conditions to their financing, which are unlikely to be onerous due to the nature of small business. EDC's larger clients, potentially could, although many of these businesses are familiar with higher standards as they are required to use them, either by their own Board of Directors or when engaging with the World Bank.

## EDC already uses World Bank standards.

World Bank standards have improved over the years. The International Finance Corporation, the private sector lending arm of the World Bank Group, only put in place its own environmental and social policies in 1998. The Environmental and Safeguard policies now in use at the IFC are not required of the EDC. EDC argues that they are not strong enough in some instances and too strong in others. EDC should build on the World Bank standards rather than apply them arbitrarily and on an ad hoc basis.

## EDC is not in a position to push Canada's standards on others.

In conditioning the extension of financing on the environmental, social and human rights performance of the projects EDC is asked to fund, EDC is not violating the national sovereignty of the states in question. EDC is simply establishing criteria by which it will measure the merits of projects. Countries and companies objecting to these conditions are not obliged to accept them. No principle of international law is violated. In fact, international law on human rights and environment would be better protected. Establishing environmental and human rights criteria for a project is no more an extra-territorial imposition undermining foreign sovereignty than are conditions requiring a basic level of credit worthiness of a foreign government before financing is extended. Conditioning financing to ensure that well-established environmental, social and human rights standards are met is not a violation of sovereignty.

EDC argues that it will uphold host country laws. In the case of the Urrà dam in Colombia, EDC failed to even do that, resulting in a court injunction. Host country laws, in letter or spirit, may not adequately ensure that EDC would not be financing a disaster.

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*Marcopper:* Catherine Coumans, MiningWatch Canada
*Three Gorges, BioBío, Yacyretá:* International Rivers Network
*Urrà:* The Inter-Church Committee for Human Rights in Latin America
*Ok Tedi:* Mineral Policy Institute of Australia
*CANDU Reactors:* Robert Del Tredici

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